

# **EXHIBIT 5**

**FILED**

SEP 11 2003

**SURFACE  
TRANSPORTATION BOARD**



Before the

**SURFACE TRANSPORTATION BOARD**

**NOTICE OF  
ALLEGHENY & EASTERN RAILROAD, INC.  
FOR EXEMPTION OF ABANDONMENT  
FROM REGULATION PURSUANT TO  
49 C.F.R. §1152.50**

Elk and Cameron Counties, Pennsylvania

Docket No. AB-854 (X)

**FEE RECEIVED**

SEP 11 2003

**SURFACE  
TRANSPORTATION BOARD**

**ENTERED  
Office of Proceedings**

SEP 11 2003

**Part of  
Public Record**

ERIC M. HOCKY  
GOLLATZ, GRIFFIN & EWING, P.C.  
Four Penn Center  
Suite 200  
1600 JFK Blvd.  
Philadelphia, PA 19103  
(215) 563-9400  
Attorneys for Allegheny & Eastern Railroad, Inc.

Dated: September 9, 2003

STB0144

Before the  
SURFACE TRANSPORTATION BOARD

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NOTICE OF  
ALLEGHENY & EASTERN RAILROAD, INC.  
FOR EXEMPTION OF ABANDONMENT  
FROM REGULATION PURSUANT TO  
49 C.F.R. §1152.50



Elk and Cameron Counties, Pennsylvania

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This Notice of Abandonment is given pursuant to the requirements of 49 C.F.R. §1152.50. In accordance with such requirements, Allegheny & Eastern Railroad, Inc. ("Applicant") hereby states as follows:

1. The exact name of Applicant is Allegheny & Eastern Railroad, Inc.
2. Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.
3. The relief sought is the abandonment of a portion of Applicant's line of railroad which runs between a point north of St. Mary's in Elk County, Pennsylvania (milepost 131) and a point in the southeastern corner of Emporium in Cameron County, Pennsylvania (milepost 149.9).
4. A detailed map of the subject line showing the exact location of the rail line to be abandoned and its relation to other rail lines in the area, highways, water routes and population centers is attached hereto.

5. The representative of Applicant to whom correspondence should be sent is:

Eric M. Hocky, Esquire  
GOLLATZ, GRIFFIN & EWING, P.C.  
Four Penn Center  
Suite 200  
1600 JFK Blvd.  
Philadelphia, PA 19103  
(215) 563-9400

6. The line to be abandoned traverses United States Postal Service ZIP Codes 15857 and 15834.

7. The property proposed for abandonment is located in a rural area, and Applicant does not have fee title to all of the property. Thus, it may or may not be appropriate for other public purposes. Local municipalities have expressed interest in having the property rail banked.

8. Applicant proposes to consummate the abandonment on or after October 30, 2003.

9. Applicant certifies that:

(a) No local traffic has moved over the line for at least two years, and overhead traffic, if any, could be rerouted over other lines.

(b) No formal complaint by a user of rail service on the line, or a state or local government entity acting on behalf of such user, regarding cessation of service over the line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the two year period.

10. Although no employees of Applicant will be affected by the abandonment, Applicant recognizes that this abandonment will be made subject to the employee protective conditions in Oregon Short Line Railroad Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

11. An environmental/historic report in accordance with the requirements of 49 C.F.R. §§1105.7 and 1105.8 was filed with the Board on August 11, 2003. As noted in the report, Applicant has complied with the notice requirements of 49 C.F.R. §1105.11.

12. Applicant has complied with the notice requirements of 49 C.F.R. §1152.50(d)(1). Copies of the form of notice mailed, and the addressees to whom they were mailed, are attached hereto as Exhibit B.

Respectfully submitted,



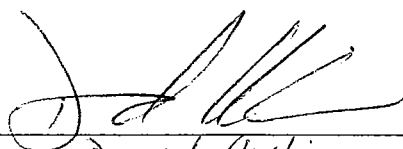
ERIC M. HOCKY  
GOLLATZ, GRIFFIN & EWING, P.C.  
Four Penn Center  
Suite 200  
1600 JFK Blvd.  
Philadelphia, PA 19103  
(215) 563-9400  
Attorneys for Allegheny & Eastern Railroad, Inc.

DATED: September 9, 2003

### VERIFICATION

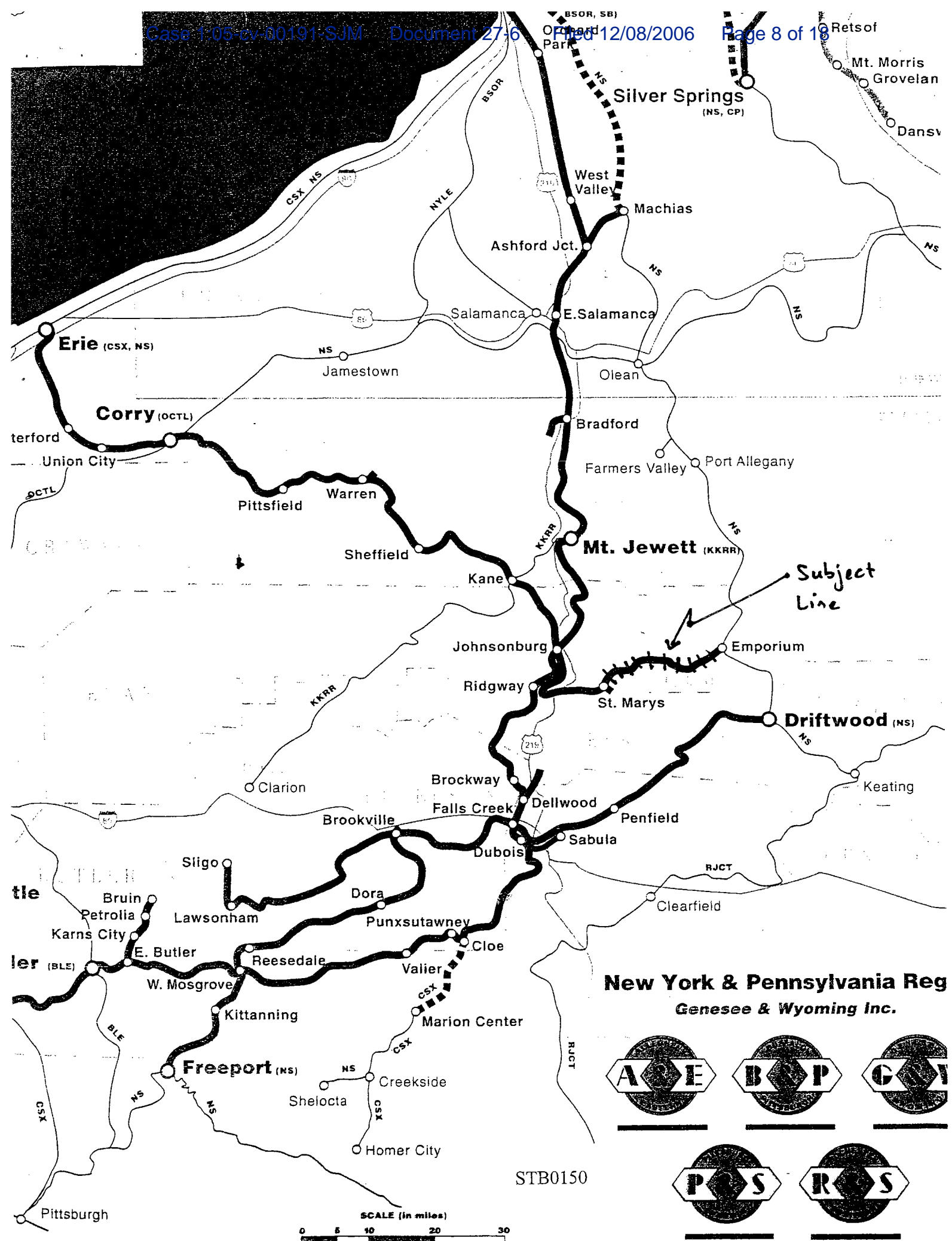
I hereby verify on behalf of Allegheny & Eastern Railroad, Inc., under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on SEPTEMBER 9, 2003.

  
Name: DAVID COLLINS  
Title: President

**MAP**

STB0149





**10 DAY NOTICES**

STB0151

SAMPLE

213 WEST MINER STREET  
PO BOX 796  
WEST CHESTER, PA 19381  
TELEPHONE 610.692.9116  
FACSIMILE 610.692.9177  
WWW.GGELAW.COM

**GC&E** GOLLATZ  
GRIFFIN  
& EWING  
ATTORNEYS - AT - LAW

LEANORE D. BELLIS  
DIRECT DIAL 610.350.4132  
lbellis@ggelaw.com

August 12, 2003  
VIA: FIRST CLASS MAIL

Office of Chief of Forest Service  
U.S. Department of Agriculture  
Auditor's Building  
201 14th Street S.W. and Independence Ave., S.W.  
Washington, DC 20250

RE: Notice of Exemption/Abandonment  
Docket No. 854 (X)

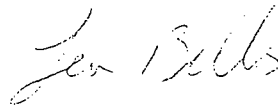
Dear Sir or Madam:

This letter is to advise you that Allegheny & Eastern Railroad, Inc. ("ALY") will be filing a verified notice of abandonment pursuant to the provisions of 49 C.F.R. §1152.50 with the Surface Transportation Board on or about September 8, 2003 relating to the abandonment of its line of railroad which runs between a point north of St. Mary's in Elk County, Pennsylvania (milepost 131) and a point in the southeastern corner of Emporium in Cameron County, Pennsylvania (milepost 149.9). This line traverses through United States Postal ZIP Codes 15857 and 15834.

Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Enclosed is a copy of the Environmental/Historic Report relating to the proposed abandonment that has been filed with the Surface Transportation Board.

Very truly yours,



Leanne D. Bellis

Enclosure  
cc: Eric M. Hocky, Esquire

STB0152

**10 Day Notice**

Governor Edward G. Rendell's Office  
225 Main Capitol Building  
Harrisburg, Pennsylvania 17120

Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Pennsylvania Department of Transportation  
400 North Street  
8<sup>th</sup> Floor  
Harrisburg, PA 17120

Federal Railroad Administration  
1120 Vermont Avenue, NW  
Washington, DC 20590

United States Department of Defense  
Transportation Engineering Agency/  
Military Traffic Management Command  
720 Thimble Shoals Blvd., Ste. 130  
Newport News, VA 23606-2574

Regional Director  
National Park Service  
U.S. Custom House  
200 Chestnut St., Fifth Floor  
Philadelphia, PA 19106

National Park Service  
National Center For Recreation  
and Conservation  
M.S. 3622  
1849 C Street, NW  
Washington, DC 20240-0001


National Park Services  
Land Resources Division  
M.S. 3622  
1849 C Street, NW  
Washington, DC 20240-0001

U. S. Railroad Retirement Board  
Pittsburgh District Office  
Moorhead Federal Building, Room 1534  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4101

Office of Chief of Forest Service  
U.S. Department of Agriculture  
Auditor's Building  
201 14th Street S.W. and Independence Ave., S.W.  
Washington, DC 20250

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a copy of the foregoing Notice of Abandonment was served on the persons shown on the attached list by first class mail, postage prepaid.

  
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ERIC M. HOCKY

Dated: September 9, 2003

STB0155

**Service List for Docket No. AB 854 (X)**

PA Department of Transportation  
400 North Street  
8<sup>th</sup> Floor  
Harrisburg, PA 17120

Pennsylvania State Conservation Commission  
Agriculture Building, Room 407  
2301 North Cameron Street  
Harrisburg, Pennsylvania 17110

PA Dept. of Environmental Protection  
Northwest Regional Office  
230 Chestnut Street  
Meadville, PA 19335

PA Dept. of Environmental Protection  
Northcentral Regional Office  
208 W. Third Street  
Suite 101  
Williamsport, PA 17701-6448

Office For River Basin Cooperation  
Coastal Zone Management Program  
Pennsylvania Department of  
Environmental Protection  
P.O. Box 2063  
400 Market Street, 15<sup>th</sup> Floor  
Harrisburg, PA 17105-2063

Commissioner  
Elk County  
Court House Annex Building  
300 Center Street  
P.O. Box 448  
Ridgway, PA 15853

Board of Commissioners Chair  
Cameron County  
20 East 5th Street  
County Courthouse  
Emporium, PA 15834-1469

Region 3

Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103-2029

US Fish and Wildlife Service  
Regional Office - PA  
300 Westgate Center Drive  
Hadley, MA 01035-9589

Albert H. Rogalla  
Chief, Regulatory Branch  
Dept. of the Army, Pittsburgh District,  
Corps of Engineers  
2032 William S. Moorhead Federal Building  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186

Northeast Region  
Regional Director  
National Park Service  
U.S. Custom House  
200 Chestnut St., Fifth Floor  
Philadelphia, PA 19106

National Park Service  
National Center For Recreation  
and Conservation  
M.S. 3622  
1849 C Street, NW  
Washington, DC 20240-0001

National Park Services  
Land Resources Division  
M.S. 3622  
1849 C Street, NW  
Washington, DC 20240-0001

USDA Natural Resources Conservation Service  
One Credit Union Place, Suite 340  
Harrisburg, PA 17110-2993

PA Department of Conservation  
and Natural Resources Executive Office  
7th Floor  
Rachel Carson State Office Building  
P.O. Box 8767  
Harrisburg, PA 17105-8767

Mr. Richard A. Snay  
Chief, Spatial Reference System Div.  
United States Dept. of Commerce  
NOAA, N/NGS2  
Station 8813  
1315 East-West Highway  
Silver Spring, MD 20910-3282

Cameron Conservation District 20  
East Fifth St.  
Room 105  
Emporium, PA 15834

Elk County Conservation District  
P.O. Box 448  
Courthouse  
Ridgway, PA 15853-0448

David Densmore  
Supervisor  
Fish and Wildlife Service  
Pennsylvania Field Office  
315 South Allen Street  
Suite 322  
State College, PA 16801-4805

Vicki Petrazio  
Borough Manager  
Borough of Emporium  
421 N. Broad Street  
Emporium, PA 15834

Pennsylvania Game Commission  
Bureau of Law Enforcement  
North Central Regional Office  
1566 South Route 44 Highway  
Post Office Box 5038  
Jersey Shore, PA 17740-5038



Pennsylvania Fish and Boat Commission  
Northcentral Region  
466 Robinson Lane  
PO Box 5306  
Bellefonte, PA 16823

Jean J. Cutler  
Director  
Pennsylvania Historical and Museum Commission  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Governor Edward G. Rendell's Office  
225 Main Capitol Building  
Harrisburg, Pennsylvania 17120

Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Pennsylvania Department of Transportation  
400 North Street  
8<sup>th</sup> Floor  
Harrisburg, PA 17120

Federal Railroad Administration  
1120 Vermont Avenue, NW  
Washington, DC 20590

United States Department of Defense  
Transportation Engineering Agency/  
Military Traffic Management Command  
720 Thimble Shoals Blvd., Ste. 130  
Newport News, VA 23606-2574

Regional Director  
National Park Service  
U.S. Custom House  
200 Chestnut St., Fifth Floor  
Philadelphia, PA 19106

National Park Service  
National Center For Recreation  
and Conservation  
M.S. 3622

STB0159

1849 C Street, NW  
Washington, DC 20240-0001

National Park Services  
Land Resources Division  
M.S. 3622  
1849 C Street, NW  
Washington, DC 20240-0001

U. S. Railroad Retirement Board  
Pittsburgh District Office  
Moorhead Federal Building, Room 1534  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4101

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U.S. Department of Agriculture  
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201 14th Street S.W. and Independence Ave., S.W.  
Washington, DC 20250